

CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

March 15, 2018

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 8:33 a.m. in the City Council Executive Conference Room on the 15th day of March, 2018, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT: Councilmember Castleberry and Chairman Allison

ABSENT: Councilmembers Holman and Karjala

OTHER STAFF PRESENT: Ms. Susan Connors, Planning and Community Development Director
Mr. Terry Floyd, Development Coordinator
Ms. Regina Oliphant, Administrative Tech III
Ms. Jeanne Snider, Assistant City Attorney

Item 1, being:

CONTINUED DISCUSSION REGARDING SHORT TERM RENTALS (COMMERCIAL HOME SHARING SUCH AS AIRBNB, HOME AWAY, AND VRBO).

Ms. Jeanne Snider, Assistant City Attorney, said the Oversight Committee previously met in February to discuss short term rentals/home sharing. At that meeting the Committee directed staff to prepare a draft ordinance for further review and discussion, which will be discussed today. She said the committee also discussed a collection agreement with Airbnb to collect and remit Transient Guest Room Tax on their properties. She said a temporary restraining order was filed on February 21, 2018 against the property at Greenwood Drive operating an Airbnb restricting said property to monthly rental only.

Ms. Snider said the Draft Ordinance is primarily patterned after the City of Austin.

- Proposes Short Term Rentals (STR) be allowed in all zoning districts
- Subject to licensing requirements
- Most STR currently located in single-family areas
- GOAL: Adequate restrictions to allow STR use harmoniously with neighbors

Ms. Snider presented the proposed licensing requirements as follows:

- Annual license; expiring on September 30 of each year due to the high volume of other licensing expirations in March; easing the potential over load on staff during that time
- Name of property owner; address of property
- 24/7 local contact person
- Certification that property is not in violation of city, state, or federal law
- Proof of insurance
- Proof of payment of hotel occupancy taxes – whether we have a collection agreement with the property sharing platforms or not, as some do not require this information; therefore, the property owners will be required to show proof of payment.
- Provide floor plan – how many bedrooms?

Ms. Snider presented the proposed Notification Requirements and General Requirements as follows:

- Director will provide packet of information, which includes:

- 24/7 local contact
- Restrictions on noise and parking
- Trash collection schedule
- Burn bans and water restrictions
- Notice of local contact information to be mailed to all properties within 100 feet at owner's expense
- Shall have operational smoke detectors, carbon monoxide detectors, and fire extinguishers
- All required egress windows in bedrooms must be operational for fire safety
- Lots up to four units – only one can be licensed for no more than 95 days per year; however, there could be STR in other zoning areas, e.g., commercial or mixed use and Council may want to consider adjusting the 95 day limit in those areas.
- Lots with five or more units, only two units may be used as STR and also up for
- Limit number of STR licenses per year per applicant – How many and should we?
- Restrictions on noise, sound equipment and musical instruments
- Must include license number in all advertising – allowing the city and surrounding neighbors to know they were properly licensed through the City

Councilmember Castleberry asked if the days/per year requirement would be adjusted by use of a variance or by issuance of a different type of license. Ms. Susan Connors, Director of Planning and Community Development, said they would like some feedback as to whether it is reasonable or not, but there are many other options they could look at. Ms. Snider said Austin, Texas has Types I, II, and III with different criteria for each one.

Ms. Connors said with regard to Boulder, CO, they only allow one STR per property owner in the city. Councilmember Castleberry asked if that would hold-up legally. Ms. Connors said they are currently operating with this restriction. Ms. Snider said they can own multiple properties but multiple STRs are not allowed per property owner, and others require the property to be owned by an individual owner, not a corporation.

Ms. Connors answered a question from the audience to define what a “lot with four units” is defined as and she gave the example of a person owning a quadplex having up to four livable units on a lot, allowing only one unit for a STR; however, a house with four bedrooms is considered one unit, and the difference is livable units versus bedrooms.

Ms. Snider presented the proposed Occupancy Limits as follows:

- Occupancy limits
 - Not more than two adults per bedroom/sleeping accommodations
 - May not use STR for outside assembly between 10:00 p.m. – 7:00 a.m.; limited to six adults
 - Assembly includes a wedding, bachelor or bachelorette party, sponsored event, or similar group activity other than sleeping – other cities restrict the use for assembly
 - STR may not be used by more than ten adults at one time
 - STR may not be used by six unrelated adults

Councilmember Castleberry asked if having a party is not allowed at his home or if this applies only to renting a STR in order to have a party. Ms. Connors said it only applies to the rental of a STR; restricting the use of STR for party houses.

Ms. Snider said with regard to restricting the number of adults in a STR, it will be difficult to enforce. Ms. Connors said the licensing would restrict the number of people based on the number of bedrooms and the majority of people would follow the rules.

Councilmember Castleberry asked what happens if they violate the license restrictions. Ms. Snider said the Director of Planning and Community Development could revoke a license if certain violations are observed and penalties/fees could be applied, as well as, charges filed as with other Code Compliance violations.

Ms. Snider presented the proposed Local Contact Requirement as follows:

- Must identify individual to serve as a local contact to respond to emergency conditions
- Be in Norman metro area and available to respond within one hour
- Any change of local contact must be updated within three business days

Ms. Snider said some ordinances required the local contact to be someone involved in the daily operations of the said property.

Councilmember Castleberry said that he feels three days is an unreasonable, too short, amount of time to make the necessary changes to the local contact information.

Ms. Snider presented the proposed requirements for Repeat Offenses as follows:

- Director may deny, suspend, or revoke an application:
 - For failure to comply, or
 - If two violations are observed in a 12 month period, e.g., noise or parking violations
- Repeated violations of city or state laws in a 24 month period prior to application
 - Frequency of repeated violations
 - Committed intentionally or knowingly
 - Other information that demonstrates degree to which owner/occupant endangered public health, safety, or welfare
- May appeal Director's decision to City Manager

Ms. Snider said there needs to be guidelines included in the ordinance in order to give the City authority to deny, revoke or suspend an application and at this time they have the appeal process assigned to the City Manager. Councilmember Castleberry said the process should be the same as any other City Code violation process. Ms. Connors said if there is a Code Compliance violation, it is processed administratively and then it goes to Court; therefore, we do not have an internal appeal process. Councilmember Castleberry asked if this should be the same process. Ms. Snider said the process can be the same.

Ms. Snider presented the proposal for Non-Compliance Fees as follows:

- Additional fees if application submitted after notice of violation
- Additional fees if application submitted to renew after notice of violation
- Fee shall be based on city's cost to enforce licensing requirement

Councilmember Allison said he reviewed the draft ordinance and said it is a start but his view was more on the side of allowing opt-outs for neighborhoods; however, not all Councilmembers concurred. He asked if they observed in their research any other cities allowing an opt-out process for neighborhoods. Ms. Connors asked for an example of how they would opt out. Councilmember Allison said similar to the way they process a street name change or parking regulations, with a petition to include a percentage of the neighborhood in agreement. Ms. Snider said she has not seen this but will be happy to search more specifically for opt-out options within other cities ordinances. Councilmember Castleberry would like to see if others have done so.

Councilmember Allison left the meeting at approximately 8:50 a.m.

Councilmember Castleberry said he would like to open this meeting up for public discussion since there was not a quorum present and Councilmember Allison must leave early for an appointment in Oklahoma City.

Ms. Snider said Legal has discussed options such as different categories, e.g., Type I, II, or III licensing requirements to include different zoning areas and asked how they should differ, should they be allowed in all zoning districts, should they have different regulations for different zoning areas, should there be a minimum distance between units, should there be a limitation on number of STRs for each applicant, and what fees should be applied. Ms. Connors said they have limited the number of units to two STR units per applicant, including apartment complexes, and recognized that to be very low; however, the numbers were consistent with other cities. Councilmember Castleberry said with regard to apartment complexes there should not be any restrictions because all the units are rentals with residents consistently coming and going and whether STRs or not it does not change the character of the neighborhood; however, he would like to know the rationale for the decision to restrict the numbers of those apartment complex STRs.

Ms. Snider said during her research she found an article indicating legal actions in California over a total ban of STRs. Councilmember Castleberry repeated, for clarification, that other cities have tried to ban STRs and those bans have progressed to possible litigation. Ms. Snider said yes; however, in Asheville, North Carolina, they banned STRs other than in their resort district, and the established resort district made it easier for the city to accomplish the restriction. Norman does not have that type of district, but the restriction in Asheville shows how individual cities can establish restrictions uniquely to their individual cities.

Will the City collect sales tax on the STRs?

Ms. Snider said the ordinance requires all appropriate taxes to be collected and there are companies that will provide the city with a database in order to establish where the STRs are located allowing the city to verify if the appropriate taxes are being collected or not.

With regard to the restrictions on the number of people allowed and the number of how many homes you can have registered as a STR, how will the City regulate this?

Ms. Connors said the license will dictate the number of occupants allowed and compliance will be handled on a complaint basis.

What kind of floor plans would be necessary for the licensing requirements?

Ms. Connors said the City needs to know the number of bedrooms and/or the number of sleeping accommodations in order to create an occupancy limitation, but those details need to be included in discussions.

There were other concerns expressed during the audience discussion and are listed as follows:

- Sales Tax and Hotel/Motel Tax collections – leveling the playing field
- Who is responsible for paying the appropriate taxes
- Fire Inspections – sprinkler installation requirements
- Insurance
- Occupancy limits
- HOA restrictions
- Concerns with catering to the shared economy trend over older homeowners
- Owners maintaining the properties and/or monitoring the property
- Airbnb is collecting tax from the homeowners
- Distance between rentals in a particular area
- Changes to core Norman
- Possible litigation
- Compliance enforcement
- Zoning issues

- Encroachment of residential neighborhoods
- Signing of the Airbnb Voluntary Collection Agreement

Ms. Snider and Ms. Connors recommend further discussion with other Councilmembers regarding STRs.

Items submitted for the record

1. Memo dated March 9, 2018, from Ms. Susan Connors, Planning and Community Development Director, through Mr. Steve Lewis, City Manager, Mr. Jeff Bryant, City Attorney, and Mr. Anthony Francisco, Finance Director, to the Council Oversight Committee
2. Draft Ordinance for Short-Term Rentals/Home Sharing from the Legal Department to the Council Oversight Committee
3. City Council Oversight Committee Minutes, dated February 15, 2018, to the Council Oversight Committee
4. Power Point Presentation entitled, "City Council Oversight Committee, Short-Term Rentals," dated March 15, 2018

ADJOURNMENT:

The meeting adjourned at 9:28 a.m.